

MAR 26 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOYCE M. BRIERE,

Plaintiff - Appellant,

v.

MICHAEL CHERTOFF, Secretary of
Department of Homeland Security,

Defendant - Appellee.

No. 06-56740

D.C. No. CV-06-00501-LAB

MEMORANDUM *

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted March 18, 2008 **

Before: CANBY, T.G. NELSON, and BEA, Circuit Judges.

Joyce M. Briere appeals pro se from the district court's order dismissing her employment discrimination action for failure to serve the summons and complaint

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

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in a timely manner. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion. *Townsel v. County of Contra Costa*, 820 F.2d 319, 320 (9th Cir. 1987). We affirm.

The district court did not abuse its discretion by dismissing the action without prejudice because Briere failed to serve the summons and complaint in a timely manner as required by Fed. R. Civ. P. 4(m), or to show good cause for this failure. *See Townsel*, 820 F.2d at 320 (ignorance of Rule 4(m) does not constitute good cause); *see also King v. Atiyeh*, 814 F.2d 565, 567 (9th Cir. 1987) (“Pro se litigants must follow the same rules of procedure that govern other litigants.”).

The district court did not abuse its discretion by denying Briere’s motion to proceed in forma pauperis. *See Tripathi v. First Nat’l Bank & Trust*, 821 F.2d 1368, 1369 (9th Cir. 1987). The record shows that the resources available to Briere were sufficient to pay her court costs and to provide for herself and her dependants. *See Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948).

AFFIRMED.